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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [KTIA](#) [KJUS](#) [CB](#)  
SUBJECT: RAINSY CONVICTED AND SENTENCED TO TWO YEARS FOR  
BORDER STUNT

REF: A. PHNOM PENH 16  
[B.](#) 09 PHNOM PENH 949  
[C.](#) 09 PHNOM PENH 847

Classified By: DCM THEODORE ALLEGRA FOR REASONS 1.4 (B, D)

[1.](#) (C) SUMMARY: Opposition party leader Sam Rainsy was convicted in absentia January 27 on charges of destroying public property and inciting national discrimination for his role in removing temporary markers delineating the Cambodia-Vietnam border; he was sentenced to two years in prison and a fine of 8 million riel (approximately \$1,950 USD). Two villagers who participated in the October 25 events were convicted and sentenced to one year in jail each. In addition, the three defendants were ordered collectively to pay 55 million riel (approximately \$13,400 USD) in compensation to the provincial government. SRP insiders confirm that Rainsy will appeal the decision to keep his seat in parliament, though some SRP members admit that Rainsy "probably stepped over the line" by inciting or abetting interference in the border demarcation process with Vietnam -- a divisive political and social issue. They acknowledge that Rainsy's continued absence from Cambodia will affect the party's ability to rally and unite its electoral base, but have formulated a strategy for Rainsy to give digital video conferences. In the meantime, the SRP continues to attack the government on the border issue using anti-Vietnamese rhetoric. END SUMMARY.

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The Hearing  
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[2.](#) (SBU) On January 27, the Svay Rieng Provincial Court held a five-hour closing hearing for Sam Rainsy, leader of the opposition Sam Rainsy Party (SRP), and two farmers on charges of destroying public property and inciting national discrimination (Ref C). Rainsy and his supporters had publicly announced he would remain in France and would not attend the hearing (Ref A). Typical of Cambodia's civil code system, the court proceeded with the hearing in absentia.

[3.](#) (SBU) According to observers, police surrounded the courtroom long before the 8:00 a.m. start of the hearing. Besides the parties and witnesses, a staff member from the UN Office for the High Commissioner for Human Rights reported that the police allowed only he and three SRP Members of Parliament to access the courtroom. Provincial police officials reportedly constituted the remainder of the audience inside the courtroom.

[4.](#) (SBU) Rainsy's attorney, Choung Chou Ngy, described the environment outside the courtroom as "intimidating," and stated his belief that even if the judge wanted to acquit Rainsy, he would not do so for fear of being arrested. That said, he reported that the environment inside the courtroom was calm, and that the hearing followed correct procedure.

Rainsy's lawyer pronounced his satisfaction with the hearing process and commended Judge Kim Chhean for his conduct of the hearing by allowing all the lawyers and witnesses sufficient time to speak and present evidence. The lawyer noted that the majority of witnesses called were police officials.

15. (SBU) Following a recess, the judge announced guilty verdicts against Rainsy and two other villagers, including Meas Srey, the woman who owns the rice field where border marker 185 was removed on October 25. The judge sentenced Rainsy to two years in prison and a fine of 8 million riel (approximately \$1,950 USD). The two villagers each received a one-year jail sentence. In addition, the three defendants were ordered collectively to pay 55 million riel (approximately \$13,400 USD) in compensation to the plaintiff - 50 million riel for the removal of the border posts and 5 million riel for incitement. The judge dismissed the charges against three additional defendants who went into hiding after officials detained the two farmers on December 23.

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The Reaction  
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16. (SBU) At a January 28 press conference, SRP spokesman Yim Sovann condemned the hearing and verdict as "theater" meant to muzzle the opposition, and promised to release yet more documents to substantiate the claim that the Cambodian government is ceding Cambodian land to Vietnam. In this context, SRP members are referring to "Yuon" encroachment on Cambodian land, using the derogative terms for the Vietnamese. SRP literature and opposition news articles also

PHNOM PENH 00000075 002 OF 002

provocatively accuse Vietnamese companies of "stealing" land by placing "invasion posts" on Cambodian farmers' rice fields, and accuse the government of being a puppet of the Vietnamese regime.

17. (SBU) Ou Virak, Executive Director of the Cambodian Center for Human Rights (CCHR) adopted a similar line, criticizing the court for not attempting to determine the correct ownership status of land and the border marker placement. Thun Saray, President of the Cambodian Human Rights and Development Association (ADHOC) told Poloff the conviction of the two villagers was unfair, and that he believed the villagers would never have taken such actions without the encouragement of Sam Rainsy. He said ADHOC will continue to help the villagers with legal assistance, and that when the heat of the moment has dissipated, they will discuss the appeal or pardon process. He told the Phnom Penh Post he expected Sam Rainsy and the government would likely reach a political settlement allowing Rainsy to return and avoid prison, as happened in 2006.

18. (SBU) Tith Sothea, a spokesman for the Council of Ministers Quick Reaction Force, said that the courts must be allowed to do their work independently. He stated that Sam Rainsy's approach was to "look down upon" the government and to "confuse the Cambodian people," and that Rainsy's presentations of the border situation continue to be inaccurate.

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Next Steps for the SRP  
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19. (C) The SRP Permanent Committee agreed January 28 to file an appeal later during the 30-day window, even though the initial public rhetoric will focus on the inability to secure justice and the futility of an appeal. Among the core SRP leadership, there is a realization that the loss of Rainsy's charisma, his dramatic speaking style, and his ability to unite will be keenly felt in Cambodia. A strategy to hold several digital video conferences with Rainsy from France and assurances of renewed commitment by the party faithful appear

to be attempts to put a brave face on a serious setback. Some in the SRP worry that Human Rights Party (HRP) President Kem Sokha is already intent on stealing away SRP members to the HRP in an attempt to make HRP the "legitimate opposition" that the CPP knows that it needs. Fissures in the SRP appear to be emerging with one group of accomplished and publicly popular parliamentarians such as Son Chhay and Mu Sochua potentially squared off against an inner circle close to Rainsy and Tioulong Saumura, Rainsy's spouse and fellow SRP MP. Some observers see the Rainsy case as an old CPP tactic to divide and conquer the political opposition and suggest the CPP tactic is working.

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COMMENT  
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¶10. (SBU) In both the prelude to the hearing and the reaction to the verdict, the SRP appeared uninterested in addressing the actual charges of Rainsy's role in property destruction and incitement, and instead focused on the larger issue of whether the border markers are improperly placed (Ref B). Rainsy continues to claim sole responsibility for the removal of the temporary border markers, despite video showing he did not physically uproot them but brandished them for the cameras after others had pulled them up (Ref A). With the January 27 verdict, Rainsy cannot return to Cambodia unless he goes to prison or receives a pardon, which requires agreement of the government. In the meantime, without a leader present in Cambodia able to project a confident image and articulate opposition perspectives, the SRP faces tough decisions about what to do next and the ultimate direction of their party. In the end, most find it difficult to imagine how Rainsy's stunt will increase the SRP's political relevance in Cambodia, despite the headlines it attracted by Rainsy's very visible and vocal efforts to mobilize anti-Vietnam passion while most of Cambodia's population was focused on Thai border issues. However the SRP emerges from this incident, it is clear that -- at least for now -- the playing field for opposition politics has been reduced as a result.

RODLEY